



02-27-03

DAC

52580.0019 (HAYE-118)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

CLAUDE Q.C. HAYES

Serial No.: 09/615,507

Filed: July 13, 2000

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Group Art Unit: 1711

Examiner: BISSETT, Melanie

For: **FLEXIBLE THERMAL CONTROL COMPOSITE**

**PETITION TO REVIVE  
UNDER 37 C.F.R. §1.137(b)**

**RECEIVED**

MAR - 3 2003

**OFFICE OF PETITIONS**

BOX DAC

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Dear Sir:

1. I, Basam E. Nabulsi, the undersigned, am an attorney with the law firm of Cummings & Lockwood, LLC, Stamford, Connecticut, and have been appointed with Power of Attorney in the above-identified application (the "Application").
2. A copy of a Revocation of Prior Powers of Attorney, New Power of Attorney and Change of Correspondence Address in Patent Application executed by the inventor, Claude Q.C. Hayes (the "Applicant"), is submitted concurrently herewith.
3. Based upon my investigation into the facts and circumstances surrounding the abandonment of the Application, **the Application was abandoned unintentionally.**
4. The Application was abandoned as a result of a failure on the part of Applicant to respond to an Office Action mailed on June 27, 2002. See "Notice of Abandonment" dated January 24, 2003, a copy of which is appended hereto as Exhibit A.
5. A copy of the Notice of Abandonment was apparently forwarded to Applicant by the recipient of such Notice, namely, the law firm of Jaspan Schlesinger Hoffman LLP

**CERTIFICATE OF EXPRESS MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail, Label No. EL 920295153 US, in an envelope addressed to: BOX DAC, Commissioner for Patents, Washington, D.C. 20231 on the date indicated below.

Date: February 26 2003

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(the "Jaspan Firm"), shortly after its receipt by the Jaspan Firm. Applicant immediately forwarded the Notice to my attention for urgent attention.

6. Shortly after receiving the Notice from the Applicant and pursuant to the Applicant's authorization, a complete copy of the prosecution history for the Application (the "Prosecution History") was obtained from the U.S. Patent and Trademark Office (the "PTO"). A copy of the Prosecution History is appended hereto as Exhibit B.
7. Based upon my review of the Prosecution History, the relevant sequence of events appears to have been as follows:
  - Office Action (non-final) dated June 19, 2001 entered by PTO.
  - Amendment dated December 19, 2001 filed on behalf of Applicant by the Jaspan Firm.
  - Notice of Non-Compliant Amendment dated January 4, 2002 entered by PTO.
  - A Petition was apparently filed on behalf of Applicant by the Jaspan Firm, requesting that the Notice of Non-Compliant Amendment be supplied with a new mail date and that the shortened statutory period for reply be restarted. A copy of the Petition is not contained in the Prosecution History, but a Declaration in support of the Petition dated April 10, 2002, is contained therein.
  - A Decision Granting Petition to Remail an Office Action and Restart Period for Reply dated June 27, 2002, was entered by the PTO.
  - The Notice of Non-Compliant Amendment was apparently retransmitted to the Jaspan Firm on June 27, 2002 (based on the Notice of Abandonment). However, there is no copy of the retransmitted Notice in the Prosecution History.
  - The above-noted Notice of Abandonment was mailed to the Jaspan Firm on January 24, 2003, based on the absence of a timely response to the Notice of Non-Compliant Amendment apparently mailed on June 27, 2002.
8. It is unclear from the Prosecution History whether the Notice of Non-Compliant Amendment was retransmitted on June 27, 2002 (as stated in the Notice of

Abandonment). However, assuming *arguendo*, the retransmission was transmitted to, and received by, the Jaspan Firm, there was no intention on the part of Applicant to abandon the Application. Rather, Applicant has at all times had a desire to pursue and obtain patent protection directed to the subject matter of the Application. This desire has been consistently conveyed to Applicant's counsel, including the Jaspan Firm.

9. Accordingly, the entire delay in providing the required reply, namely submitting a reply to the Notice of Non-Compliant Amendment (as retransmitted on June 27, 2202), from the due date for such reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b), was unintentional.
10. Enclosed herewith, please find the following:
  - Revised Amendment and Response to the June 19, 2001 Office Action, which is in full compliance with 37 CFR § 1.121 and obviates the issues raised in the Notice of Non-Compliant Amendment; and
  - Petition Fee in the amount of \$650.00, as required by 37 CFR § 1.17(m).
11. I, the undersigned attorney of record, confirm that to my personal knowledge, no individual involved in the prosecution of this application, has now, or has had, at any time, any intention to abandon, or to consider abandonment of this application, and no such person at any time acted with the intention of delaying or otherwise deferring proper, ongoing and timely prosecution of this application.
12. Please charge any additional fees required to Deposit Account No. 11-0231. A  
DUPLICATE OF THIS PETITION IS ATTACHED.

Respectfully submitted,



Basam E. Nabulsi  
Reg. No. 31,645  
CUMMINGS & LOCKWOOD  
Granite Square, 700 State Street  
New Haven, CT 06511

Date: February 26, 2003

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